

EXHIBIT 5

THE CODE OF ALABAMA

ADOPTED BY ACT OF THE LEGISLATURE OF ALABAMA;

APPROVED

AUGUST 17, 1923

ENTITLED

"AN ACT TO ADOPT A CODE OF LAWS FOR THE STATE OF ALABAMA,"

WITH SUCH STATUTES PASSED AT THE SESSION OF 1923 AS ARE REQUIRED
TO BE INCORPORATED HEREIN BY ACT APPROVED AUGUST 17, 1923
(ACTS 1923, PAGE 127); AND WITH CITATIONS TO DECISIONS OF THE
SUPREME COURT OF THE STATE CONSTRUING OR MENTION-
ING THE STATUTES; AND REFERENCES TO ALL FORMER
ACTS OF THE LEGISLATURE, AND TO ALL FORMER
CODES, DIGESTS, AND COMPILATIONS OF STATUTES,
SHOWING THE ORIGIN, HISTORY AND TRANSI-
TION OF THE STATUTES.

IN FOUR VOLUMES.

VOL. II—CRIMINAL.

PREPARED BY

JAMES J. MAYFIELD,
CODE COMMISSIONER.

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the statute.—119 Ala. 279 (24 So. 54). **Compromise of a criminal prosecution is illegal**, but it is not the case with a civil suit.—46 Ala. 523. Code form of indictment sufficient.—97 Ala. 72 (11 So. 901).

14 A. 575.

CROSS REFERENCES.

CONGRESSIONAL DISTRICTS (Political Code)..... 154-155

CHAPTER 104.

CONSPIRACY. 3571-3575.

3571. (6470) (4428) (4007) (4152) (3591) (50) **Conspiracy to commit felony.**—Any two or more persons, conspiring together to commit a felony, must each, on conviction, be fined not more than one thousand dollars, and may also be imprisoned in the county jail, or sentenced to hard labor for the county, for not more than six months. (Form 36 [36].)

(Clay's Digest, pp. 430, 431, § § 23 and 24.) **Conspiracy to unlawfully burn a corncrib containing corn.**—116 Ala. 461 (22 So. 666). **Evidence, sufficiency of.**—Evidence examined and held not sufficient to carry case to jury; held verdict should have been directed.—178 Ala. 76 (60 So. 97). **Participants in crime whether by pre-arrangement or on spur of the moment may be liable as conspirators.** If the common purpose is carried out, it is not necessary that both commit an overt act; the aiding and abetting may be sufficient.—174 Ala. 53 (57 So. 31). **Pre-arrangement not always necessary element of conspiracy.**—174 Ala. 53 (57 So. 31). **Conspiracies.**—Evidence and declarations of conspirators cannot be avoided after object is perfected; calling one conspirator as witness without dismissing case against him.—172 Ala. 363 (55 So. 514).

8 A. 196; 13 A. 243.

3572. (6471) (4429) (4008) (4153) (3592) (51) **Conspiracy to commit misdemeanor.**—Any two or more persons, conspiring together to commit a misdemeanor, must each, on conviction, be fined not more than five hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for not more than three months. (Form 36 [36].)

Conspiracy as to prosecution against the defendant.—167 Ala. 146 (52 So. 596). 8 A. 196.

Conspiracy to whip a third person, declarations of conspirators after commission of offense not admissible.—113 Ala. 102 (21 So. 404). **Conspiracy defined.**—6 Ala. 765. Unlawful agreement is gist of offense, though nothing be done.—2 Stew. 360. To seduce a virtuous female.—6 Ala. 765. Agreement between a man and woman to commit adultery is not a conspiracy.—58 Ala. 390. To commit misdemeanor is not merged into the offense, but indictment may be framed to convict either.—6 Ala. 765. May be proved circumstantially without positive agreement or meeting of conspirators.—29 Ala. 62; 30 Ala. 503; 67 Ala. 66. Established by testimony of accomplice, if his statement connecting defendant with the offense is corroborated.—67 Ala. 66. What said

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and done by one in presence of others, while committing the offense, admissible against all.—52 Ala. 407. Motion in arrest of judgment allowable to one or more, in absence of others.—4 Ala. 603. The conspiracy is a complete offense within itself, and no act in consummation thereof is necessary.—106 Ala. 67 (17 So. 412). A conspiracy in this state to commit a felony in another state is indictable.—106 Ala. 67 (17 So. 412). Indictment charging that defendants conspired together to unlawfully take a thousand dollars in money, the property of J. H., from his person, and against his will, by violence to his person, or by putting him in fear, as to unwillingly part with it," is sufficient.—Ib. When declaration and conduct of one evidence against others.—74 Ala. 9; 81 Ala. 1 (1 So. 179); 83 Ala. 1 (3 So. 749); 87 Ala. 39 (6 So. 400); 89 Ala. 115 (8 So. 23); 89 Ala. 121 (8 So. 98); 92 Ala. 1 (9 So. 613); 102 Ala. 25 (15 So. 722). Liability of each for acts of others.—99 Ala. 148 (13 So. 550); 100 Ala. 114 (14 So. 648); 102 Ala. 25 (15 So. 722). Conspiracy must be established before responsibility ensues.—97 Ala. 57 (12 So. 54); 100 Ala. 114 (14 So. 648). Positive or direct proof not necessary to establish.—89 Ala. 115 (8 So. 23); 89 Ala. 121 (8 So. 98); 92 Ala. 1 (9 So. 613); 94 Ala. 19 (10 So. 606); 110 Ala. 63 (20 So. 323).

3573. (6472) (4430) **Conspiracy formed in this state to commit crime elsewhere indictable here.**—A conspiracy formed in this state to do an act beyond the state, which, if done in this state, would be a criminal offense, is indictable and punishable in this state in all respects as if such conspiracy had been to do such act in this state.

106 Ala. 67 (17 So. 512).

3574. Conspiracy defined and punished.—Whenever two or more persons shall conspire—

- (1). To commit a crime; or
- (2). Falsely and maliciously to procure another to be arrested or proceeded against for a crime; or
- (3). Falsely to institute or maintain any action or proceeding; or
- (4). To cheat or defraud another out of any property by unlawful or fraudulent means; or
- (5). To prevent another from exercising any lawful trade or calling, or from doing any other lawful act, by force, threats, or intimidation, or by interfering or threatening to interfere with any tools, implements or property belonging to or used by another, or with the use or employment thereof; or
- (6). To commit any act injurious to the public health, public morals, trade or commerce, or for the perversion or corruption of public justice or the due administration of the law; or,
- (7). To accomplish any criminal or unlawful purpose, or to accomplish a purpose, not in itself criminal or unlawful by criminal or unlawful means;

Every person so conspiring shall be guilty of a misdemeanor and punished as provided in section 3572 (6471).

3575. Overt act not necessary.—In any proceeding for a violation of the preceding section, it shall not be necessary to prove that any overt act was done in pursuance of such unlawful conspiracy or combination.